

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

BARRY HOYT

PLAINTIFF

v.

Civil No. 06-5169

BENTON COUNTY PUBLIC DEFENDER'S
OFFICE; JAY SAXTON, Public Defender;
and RICHARD MILLER, Public Defender

DEFENDANTS

O R D E R

Now on this 14th day of December, 2006, comes on for consideration the **Report And Recommendation Of The Magistrate Judge** (document #5), and plaintiff's response thereto (document #6). Plaintiff's response is not in the nature of an objection, but rather a concession that his claim should be dismissed, albeit for a different reason than that recommended in the **Report And Recommendation**.

The Court, having carefully reviewed the **Report And Recommendation**, finds that it is sound in all respects, and that it should be adopted *in toto*.

IT IS THEREFORE ORDERED that the **Report And Recommendation Of The Magistrate Judge** is adopted *in toto*.

IT IS FURTHER ORDERED that, for the reasons stated in the **Report And Recommendation Of The Magistrate Judge**, plaintiff's complaint is hereby **dismissed**.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE